

AMENDED IN SENATE SEPTEMBER 15, 2008

AMENDED IN SENATE AUGUST 21, 2008

AMENDED IN ASSEMBLY MAY 23, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2784

Introduced by Assembly Member Saldana La Malfa
(Coauthor: Assembly Member Feuer)

February 22, 2008

An act to amend Section 25214.10.1 of, and to add Section 25214.10.3 to, the Health and Safety Code, relating to hazardous waste. An act to amend, repeal, and add Section 14166.245 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2784, as amended, ~~Saldana La Malfa. Hazardous waste: electronic waste. Medi-Cal: hospitals: reimbursements.~~

Existing law reduces by 10% payments for inpatient hospital services to acute care hospitals not under selective contracts with the department that are provided on and after July 1, 2008.

This bill, until January 1, 2013, would revise this provision by applying this reduction to all hospitals that receive Medi-Cal reimbursement from the department and that are not under selective contracts with the department. The bill, commencing October 1, 2008, and until January 1, 2013, would require the amounts paid for inpatient hospital services to be determined using a prescribed formula, subject to specified exceptions. If specified hospitals choose to enter into selective contracts with the department, the bill would require the

California Medical Assistance Commission to negotiate reimbursement rates for those hospitals in accordance with specified criteria. The bill would require the department to report annually, from January 1, 2010, to January 1, 2012, inclusive, to the Legislature on the implementation and impact made by the changes to these rate reduction provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

~~(1) Existing law requires the Department of Toxic Substances Control to adopt regulations to prohibit an electronic device from being sold or offered for sale in this state if the electronic device is prohibited from being sold or offered for sale in the European Union on and after its date of manufacture, due to the presence of certain heavy metals, as specified. Existing law requires these regulations to take effect January 1, 2007, or on or after the date that the Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003, (Directive 2002/95/EC) takes effect, whichever date is later. Existing law defines the term “electronic device,” for purposes of those provisions, to have the same meaning, with reference to the Electronic Waste Recycling Act of 2003, as “covered electronic device” which is defined as a video display device, as specified, that is identified by the department, pursuant to specified regulations, as a presumed hazardous waste when discarded.~~

~~A violation of the hazardous waste control laws, including a regulation adopted pursuant to those laws, is a crime.~~

~~This bill would require a manufacturer of an electronic device to prepare and, at the request of the department, submit to the department within 28 days of the date of the request, technical documentation or other information showing that electronic device sold or offered for sale by that manufacturer is not prohibited from sale.~~

~~This bill would define the term “RoHS Directive” to mean that directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment, cited as Directive 2002/95/EC, as amended on or before January 1, 2009. The bill would define the term “electronic equipment” to mean a device that is dependent on electric currents or electromagnetic fields to work properly or that is a device for the generation, transfer, or measurement of electric currents or fields and that is produced or distributed for sale to a consumer or for the personal use, consumption, or enjoyment of a consumer for use in or around a permanent or temporary household or residence or a school, for use in recreation, or for other purposes or in other locations.~~

The bill would exclude from the definition of “electronic equipment” certain electronic devices, including fixed-installation devices that are electrical or mechanical, or electrical and mechanical, as specified, an electronic device that is a video display device, or an electronic or electrical lighting device.

The bill would require a producer, as defined, to prepare and, at the request of the department, submit to the department, within 28 days of the date of the request, technical documentation or other information showing that electronic equipment sold or offered for sale by that producer is not prohibited from sale by the RoHS Directive, along with other specified information, or, under specified conditions, submit available information relating to the hazardous substance content and hazardous characteristics of the equipment. The department would be prohibited from imposing any requirements or conditions that are in addition to, or more stringent than, the requirements and conditions expressly authorized by the provision imposing this requirement.

The bill would require the department to treat as confidential any information that is a trade secret, as defined, that is provided to the department pursuant to the bill’s requirements, and that is identified as a trade secret at the time of submission, in the same manner as the procedures adopted by the department with regard to hazardous waste handling and disposal. The department would be required to make available, pursuant to the California Public Records Act, any information that is not a trade secret or that is not identified as a trade secret.

Since a violation of the bill’s requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~^{no}.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14166.245 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14166.245. (a) The Legislature finds and declares that the state
- 4 faces a fiscal crisis that requires unprecedented measures to be

1 taken to reduce General Fund expenditures to avoid reducing vital
2 government services necessary for the protection of the health,
3 safety, and welfare of the citizens of the State of California.

4 (b) (1) Notwithstanding any other provision of law, *except as*
5 *provided in Article 2.93 (commencing with Section 14091.3), for*
6 ~~acute-care~~ *hospitals that receive Medi-Cal reimbursement from*
7 *the State Department of Health Care Services and that are not*
8 *under contract with the State Department of Health Care Services*
9 *pursuant to Article 2.6 (commencing with Section 14081) of*
10 *Chapter 7 of Part 3 of Division 9, the amounts paid as interim*
11 *payments for inpatient hospital services provided on and after July*
12 *1, 2008, shall be reduced by 10 percent.*

13 (2) (A) *Beginning on October 1, 2008, amounts paid that are*
14 *calculated pursuant to paragraph (1) shall not exceed the*
15 *applicable regional average per diem contract rate for tertiary*
16 *hospitals and for all other hospitals established as specified in*
17 *subparagraph (C), reduced by 5 percent, multiplied by the number*
18 *of Medi-Cal covered inpatient days for which the interim payment*
19 *is being made.*

20 (B) *This paragraph shall not apply to small and rural hospitals*
21 *specified in Section 124840 of the Health and Safety Code, or to*
22 *hospitals in open health facility planning areas that were open*
23 *health facility planning areas on October 1, 2008, unless either*
24 *of the following apply:*

25 (i) *The open health facility planning area at any time on or after*
26 *July 1, 2005, was a closed health facility planning area as*
27 *determined by the California Medical Assistance Commission.*

28 (ii) *The open health facility planning area has three or more*
29 *full service hospitals with licensed general acute care beds.*

30 (C) (i) *For purposes of this subdivision and subdivision (c),*
31 *the average regional per diem contract rates shall be derived from*
32 *unweighted average contract per diem rates that are publicly*
33 *available on June 1 of each year, trended forward based on the*
34 *trends in the California Medical Assistance Commission's Annual*
35 *Report to the Legislature. For tertiary hospitals, and for all other*
36 *hospitals, the regional average per diem contract rates shall be*
37 *based on the geographic regions in the California Medical*
38 *Assistance Commission's Annual Report to the Legislature. The*
39 *applicable average regional per diem contract rates for tertiary*
40 *hospitals and for all other hospitals shall be published by the*

department on or before October 1, 2008, and these rates shall be updated annually for each state fiscal year and shall become effective each July 1, thereafter. Supplemental payments shall not be included in this calculation.

(ii) For purposes of clause (i), both the federal and nonfederal share of the designated public hospital cost-based rates shall be included in the determination of the average contract rates by multiplying the hospital's interim rate, established pursuant to Section 14166.4 and that is in effect on June 1 of each year, by two.

(iii) For the purposes of this section, a tertiary hospital is a children's hospital specified in Section 10727, or a hospital that has been designated as a Level I or Level II trauma center by the Emergency Medical Services Authority established pursuant to Section 1797.1 of the Health and Safety Code.

(D) For purposes of this section, the terms "open health facility planning area" and "closed health facility planning area" shall have the same meaning and be applied in the same manner as used by the California Medical Assistance Commission in the implementation of the hospital contracting program authorized in Article 2.6 (commencing with Section 14081).

(E) For purposes of this section, a "full service" hospital is a general acute care hospital which, at a minimum, provides all of the following:

- (i) Basic emergency medical services.
- (ii) Medical or surgical services, or both.
- (iii) Intensive care services.
- (iv) Perinatal services.

(c) (1) Notwithstanding any other provision of law, for ~~acute care~~ hospitals that receive Medi-Cal reimbursement from the State Department of Health Care Services and that are not under contract with the State Department of Health Care Services, pursuant to Article 2.6 (commencing with Section 14081), the reimbursement amount paid by the department for inpatient services provided to Medi-Cal recipients for dates of service on and after July 1, 2008, shall not exceed the amount determined pursuant to paragraph (3).

(2) For purposes of this subdivision, the reimbursement for inpatient services includes the amounts paid for all categories of inpatient services allowable by Medi-Cal. The reimbursement

1 includes the amounts paid for routine services, together with all
2 related ancillary services.

3 (3) When calculating a hospital's cost report settlement for a
4 hospital's fiscal period that includes any dates of service on and
5 after July 1, 2008, the settlement for dates of service on and after
6 July 1, 2008, shall be limited to ~~90~~ *the lesser of the following*:

7 (A) *Ninety percent of the hospital's audited allowable cost per*
8 *day for those services multiplied by the number of Medi-Cal*
9 *covered inpatient days in the hospital's fiscal year on or after July*
10 *1, 2008.*

11 (B) *Beginning for dates of service on and after October 1, 2008,*
12 *the applicable average regional per diem contract rate established*
13 *as specified in subparagraph (A) of paragraph (2) of subdivision*
14 *(b), reduced by 5 percent, multiplied by the number of Medi-Cal*
15 *covered inpatient days in the hospital's fiscal year, or portion*
16 *thereof. This subparagraph shall not apply to small and rural*
17 *hospitals specified in Section 124840 of the Health and Safety*
18 *Code, or to hospitals in open health facility planning areas that*
19 *were open health facility planning areas on July 1, 2008, unless*
20 *either of the following apply:*

21 (i) *The open health facility planning area at any time on or after*
22 *July 1, 2005, was a closed health facility planning area as*
23 *determined by the California Medical Assistance Commission.*

24 (ii) *The open health facility planning area has more than three*
25 *full service hospitals with licensed general acute care beds.*

26 (d) ~~Hospitals~~ *Except as provided in Article 2.93 (commencing*
27 *with Section 14091.3), hospitals that participate in the Selective*
28 *Provider Contracting Program pursuant to Article 2.6 (commencing*
29 *with Section 14081) and designated public hospitals under Section*
30 *14166.1, except Los Angeles County Martin Luther King,*
31 *Jr./Charles R. Drew Medical Center and Tuolumne General*
32 *Hospital, shall be exempt from the 10-percent reduction limitations*
33 *required by this section.*

34 (e) Notwithstanding the rulemaking provisions of Chapter 3.5
35 (commencing with Section 11340) of Part 1 of Division 3 of Title
36 2 of the Government Code, the director may implement ~~subdivision~~
37 ~~(b)~~ *and administer this section by means of a provider bulletin*
38 *bulletins, or other similar instruction instructions, without taking*
39 *regulatory action.*

1 (f) The director shall promptly seek all necessary federal
2 approvals in order to implement this section, including necessary
3 amendments to the state plan.

4 (g) *Notwithstanding any other provision of this section, small*
5 *and rural hospitals, as defined in Section 124840 of the Health*
6 *and Safety Code, shall be exempt from the payment reductions set*
7 *forth in this section for dates of service on and after November 1,*
8 *2008.*

9 (h) *For hospitals that are subject to clauses (i) and (ii) of*
10 *subparagraph (B) of paragraph (2) of subdivision (b) and that*
11 *choose to contract pursuant to Article 2.6 (commencing with*
12 *Section 14081), the California Medical Assistance Commission*
13 *shall negotiate rates taking into account factors specified in Section*
14 *14083.*

15 (i) (1) *In January 2010 and in January 2011, the department*
16 *and the California Medical Assistance Commission shall submit*
17 *a written report to the policy and fiscal committees of the*
18 *Legislature on the implementation and impact of the changes made*
19 *by this section, including, but not limited to, the impact of those*
20 *changes on the number of hospitals that are contract and*
21 *noncontract, patient access, and cost savings to the state.*

22 (2) *On or before January 1, 2012, the department, in*
23 *consultation with the California Medical Assistance Commission,*
24 *shall report on the implementation of this section. The report shall*
25 *include, but not be limited to, information and analyses addressing*
26 *patient access, capacity and needs within the health facility*
27 *planning area, reimbursement of hospital costs, changes in the*
28 *number of open and closed health facility planning areas, the*
29 *impact of this section on the extent of hospital contracting, and*
30 *fiscal impact on the state.*

31 (j) *This section shall remain in effect only until January 1, 2013,*
32 *and as of that date is repealed, unless a later enacted statute, that*
33 *is enacted before January 1, 2013, deletes or extends that date.*

34 SEC. 2. *Section 14166.245 is added to the Welfare and*
35 *Institutions Code, to read:*

36 14166.245. (a) *The Legislature finds and declares that the*
37 *state faces a fiscal crisis that requires unprecedented measures to*
38 *be taken to reduce General Fund expenditures to avoid reducing*
39 *vital government services necessary for the protection of the health,*
40 *safety, and welfare of the citizens of the State of California.*

1 (b) Notwithstanding any other provision of law, for acute care
2 hospitals not under contract with the State Department of Health
3 Care Services pursuant to Article 2.6 (commencing with Section
4 14081) of Chapter 7 of Part 3 of Division 9, the amounts paid as
5 interim payments for inpatient hospital services provided on and
6 after July 1, 2008, shall be reduced by 10 percent.

7 (c) (1) Notwithstanding any other provision of law, for acute
8 care hospitals not under contract with the State Department of
9 Health Care Services, the reimbursement amount for inpatient
10 services provided to Medi-Cal recipients for dates of service on
11 and after July 1, 2008, shall not exceed the amount determined
12 pursuant to paragraph (3).

13 (2) For purposes of this subdivision, the reimbursement for
14 inpatient services includes the amounts paid for all categories of
15 inpatient services allowable by Medi-Cal. The reimbursement
16 includes the amounts paid for routine services, together with all
17 related ancillary services.

18 (3) When calculating a hospital's cost report settlement for a
19 hospital's fiscal period that includes any dates of service on and
20 after July 1, 2008, the settlement for dates of service on and after
21 July 1, 2008, shall be limited to 90 percent of the hospital's audited
22 allowable cost per day for those services multiplied by the number
23 of Medi-Cal covered inpatient days in the hospital's fiscal year
24 on or after July 1, 2008.

25 (d) Hospitals that participate in the Selective Provider
26 Contracting Program pursuant to Article 2.6 (commencing with
27 Section 14081) and designated public hospitals under Section
28 14166.1, except Los Angeles County Martin Luther King,
29 Jr./Charles R. Drew Medical Center and Tuolumne General
30 Hospital, shall be exempt from the 10 percent reduction required
31 by this section.

32 (e) Notwithstanding the rulemaking provisions of Chapter 3.5
33 (commencing with Section 11340) of Part 1 of Division 3 of Title
34 2 of the Government Code, the director may implement subdivision
35 (b) by means of a provider bulletin, or other similar instruction,
36 without taking regulatory action.

37 (f) The director shall promptly seek all necessary federal
38 approvals in order to implement this section, including necessary
39 amendments to the state plan.

40 (g) This section shall become operative on January 1, 2013.

1 *SEC. 3. This act is an urgency statute necessary for the*
2 *immediate preservation of the public peace, health, or safety within*
3 *the meaning of Article IV of the Constitution and shall go into*
4 *immediate effect. The facts constituting the necessity are:*

5 *In order to make the necessary statutory changes to implement*
6 *the Budget Act of 2008 at the earliest possible time, it is necessary*
7 *that this act take effect immediately.*

8
9
10 **All matter omitted in this version of the bill**
11 **appears in the bill as amended in the**
12 **Senate, August 21, 2008. (JR11)**
13